

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF GEORGIA  
MACON DIVISION**

GREGORY LOWE,	:	
	:	
Petitioner	:	
	:	
VS.	:	
	:	NO. 5:10-CV-4 (MTT)
Warden WILLIAM M. TERRY,	:	
	:	
Respondent	:	<b><u>ORDER</u></b>

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Before the Court is petitioner **GREGORY LOWE’S** notice of appeal, construed as a motion for a Certificate of Appealability (“COA”), from the Court’s December 8, 2010, order, which adopted Magistrate Judge Charles W. Weigle’s recommendation that petitioner’s 28 U.S.C. § 2254 motion be denied as untimely. Under section 2253(c)(2), a COA may issue only if the applicant makes “a substantial showing of the denial of a constitutional right.” This requires a petitioner to demonstrate that “reasonable jurists would find the district court’s assessment of the constitutional claims debatable or wrong.” *See also Slack v. McDaniel*, 529 U.S. 473, 478 (2000).

For the reasons stated in Magistrate Judge Weigle’s recommendation and this Court’s order accepting the same, the Court finds reasonable jurists could not find that a dismissal of petitioner’s claims was debatable or wrong. Accordingly, it is hereby **ORDERED** that petitioner’s application for a COA be **DENIED**.

It is further **ORDERED** that petitioner’s motion for leave to proceed IFP on appeal be **DENIED AS MOOT**.

**SO ORDERED**, this 28<sup>th</sup> day of January, 2011.

S/ Marc T. Treadwell  
MARC T. TREADWELL, JUDGE  
UNITED STATES DISTRICT COURT